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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,317	10/02/2002	Michael Wilford	114063-00075 7696	
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BELL, BOYD & LLOYD, LLC			DURAND, PAUL R	
PO BOX 1135 CHICAGO, IL 60690-1135			ART UNIT	PAPER NUMBER
			3721	
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Please find below and/or attached an Office communication concerning this application or proceeding.

Application No. Applicant(e) Office Action Summary			X				
Examiner Paul Durand 3721 372		Application No.	Applicant(s)				
Paul Durand 3721		10/065,317	WILFORD ET AL.				
Period for Repty A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE £ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions from many be writing that of this communication. Extensions from many be writing that of this communication is stress to (i) MONTH(S) from the mining date of this communication. Extensions from many be writing that of this communication is the provision of the communication of the co	Office Action Summary	Examiner	Art Unit				
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THE MAILING DATE OF THIS COMMUNICATION. Estationism of time may be available under the provisions of 3 CPR 1.13(6). It in or event, however, may a reply be timely filled after SX (8) MONTHS from the mailing date of this communication. If the period corresplance incomplance is less than this (10% days, a ring) within the statidory minimum of this (10% days) and the state of the communication. Failure is reply within the set of extended pariod for reply will, by standory minimum of this (10% days) and will explain the provision of the set of extended pariod for reply will, by standory and will explain the reply and will explain the provision by the Citic letter than three mentions due to the communication, even if family filled, may reduce any seamed plant term adjustment. See 37 CPR 1.70(b). Status 1) Responsive to communication(s) filled on		ears on the cover sheet with the c	orrespondence address				
2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-55 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) 1-55 are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The cath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. §§ 119 and 120 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * O None of: Certified copies of the priority documents have been received. Coefficient copies of the priority documents have been received in Application No. Copies of the certified copies of the priority documents have been received in Application No. Copies of the certified copies of the priority documents have been received. 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78. 3) The translation of the foreign language provisional application has been received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specificati	THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.1: after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply if NO period for reply is specified above, the maximum statutory period Failure to reply within the set or extended period for reply will, by statute. - Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	36(a). In no event, however, may a reply be tim y within the statutory minimum of thirty (30) day vill apply and will expire SIX (6) MONTHS from , cause the application to become ABANDONE	nely filed s will be considered timely. the mailing date of this communication. D (35 U.S.C. § 133).				
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DETAILED ACTION

Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - Claims 1-29 and 53-55, drawn to a flexible container, classified in class
 383, subclass 42.
 - II. Claims 30-49, drawn to a multiple layer film, classified in class 428.
 - III. Claim50-52, drawn to a method of filling a container, classified in class 53, subclass 469.
- 2. The inventions are distinct, each from the other because:
- 3. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination can use another patch that does not have a layer that is extrusion coated onto another. The subcombination has separate utility such as a patch for a leaking storage tank or a tent.
- 4. Inventions I and III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different

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process of using that product (MPEP § 806.05(h)). In the instant case, the process as claimed can be practiced with another materially different product such as a product that is manufactured from a polymer material and could be manufactured from metal.

- 5. Inventions II and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions, invention I does not require the patentably distinct material of invention II in that the filling process does not require a patch that has a layer that is extrusion coated onto another.
- 6. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.
- 7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Durand whose telephone number is 703-305-4962. The examiner can normally be reached on 0730-1800, Monday - Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Paul Durand December 11, 2003

Rinaldi I. Rada Supervisory Patent Examiner Group 3700